

Message Text

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12

ORIGIN EB-07

INFO OCT-01 AF-06 ISO-00 FEA-01 STR-04 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 /087 R

DRAFTED BY EB/IFD/OIA:TRBRODERICK

APPROVED BY EB/IFD/OIA:RJSMITH

L/EB:SBOND (SUBS)

AF/C:DCARDWELL

L/AF:FWILLIS (INFO)

EB/ITP/OT/GCP:MGOLDMAN (SUBS)

AF/EPS:LWHITE (INFO)

TREASURY:PDAVIS (SUBS)

COMMERCE:DARRILL (SUBS)

CIEP:GKAMENS (INFO)

STR:TGRAHAM (INFO)

AID/GC:WWARREN (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY BANGUI PRIORITY

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: EXPROPRIATED U.S. PROPERTY AND ELIGIBILITY FOR
GENERALIZED PREFERENCES (GSP)

REFS: STATE A-10523 (DEC. 28, 1973)

1. INTERAGENCY COMMITTEE CONSIDERING RECOMMENDATIONS TO

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THE PRESIDENT CONCERNING COUNTRY ELIGIBILITY FOR GSP

UNDER THE EXPROPRIATION PROVISION (SEC. 502(B)(4) OF THE TRADE ACT OF 1974 HAS NOT YET COMPLETED ITS REVIEW OF A NUMBER OF "GRAY-AREA" COUNTRIES INCLUDING THE CAR, AND WILL BE RECONSIDERING THE CONTINUED ELIGIBILITY OF SUCH COUNTRIES BEFORE THE PLANNED TIME FOR IMPLEMENTATION OF GSP ON JANUARY 1, 1976. IF APPROPRIATE, WE WILL RECOMMEND NECESSARY CHANGES TO THE LISTS OF ELIGIBLE BENEFICIARIES AT THAT TIME.

2. WITH PARTICULAR REFERENCE TO THE CAR, IT WILL BE DIFFICULT TO SUSTAIN A DETERMINATION THAT THE CAR IS TAKING STEPS TO DISCHARGE ITS INTERNATIONAL OBLIGATIONS AS REQUIRED BY SEC. 502(B)(4)(D)(II) OF THE ACT UNLESS SIGNIFICANT PROGRESS TOWARD RESOLVING THE CLAIMS OF TEXACO AND MOBIL IS MADE PRIOR TO OUR DECEMBER REVIEW. AN ILLUSTRATIVE MINIMUM STEP MIGHT BE FOR THE COMPENSATION

COMMISSION TO ISSUE ITS FINDINGS ON THE CLAIMS SUBMITTED, OR FOR THE GOCAR OTHERWISE TO BEGIN SERIOUS DISCUSSIONS OR NEGOTIATIONS WITH THE FIRMS ON COMPENSATION.

3. IF WE WERE UNABLE TO SUSTAIN SUCH A DETERMINATION, THE CAR WOULD LOSE ITS ELIGIBILITY FOR GSP UNLESS THE PRESIDENT INVOKED A "NATIONAL ECONOMIC INTEREST" WAIVER. WE HAVE NOT YET CONSIDERED WHETHER SUCH WAIVER WOULD BE FEASIBLE OR APPROPRIATE FOR THE CAR.

4. EMBASSY SHOULD ALSO BE AWARE OF SIMILAR LEGISLATION CALLING FOR THE USG TO SUSPEND BILATERAL ASSISTANCE, AND TO VOTE NEGATIVELY ON LOANS UNDER CONSIDERATION IN INTERNATIONAL DEVELOPMENT BANKS, TO COUNTRIES WHICH EXPROPRIATE AMERICAN PROPERTY IN VIOLATION OF INTERNATIONAL LAW (THE HICKENLOOPER AND GONZALEZ AMENDMENTS, RESPECTIVELY). THERE IS NO EXPRESS OR AUTOMATIC LINKAGE BETWEEN THE THREE PROVISIONS (AND THE GONZALEZ AMENDMENT HAS NO "NATIONAL INTEREST" OR "NATIONAL ECONOMIC INTEREST" WAIVER, AS DO HICKENLOOPER AND 502 (B)(4), RESPECTIVELY), BUT THERE ARE SIMILARITIES IN LANGUAGE AND INTENTION. AN ADVERSE FINDING UNDER 502 (B)(4) WOULD AS A PRACTICAL MATTER INCREASE THE LIKELIHOOD THAT THE USG WOULD APPLY LIMITED OFFICIAL USE

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HICKENLOOPER. IT IS ALMOST CERTAIN THAT THE USG WOULD APPLY GONZALEZ IN THESE CIRCUMSTANCES.

5. TO PUT THE GOCAR ON NOTICE OF POSSIBLE TERMINATION OF GSP ELIGIBILITY, AND TO ENCOURAGE STEPS RESULTING IN SIGNIFICANT PROGRESS TOWARD SETTLEMENT BEFORE ANY SUCH DECISION IS MADE, EMBASSY SHOULD MAKE FOLLOWING POINTS TO APPROPRIATE GOCAR OFFICIALS:

A. WE HAVE RECENTLY BEEN CONDUCTING A REVIEW OF COUNTRY ELIGIBILITY FOR GSP UNDER THE EXPROPRIATION PROVISION OF THE TRADE ACT OF 1974. FOR THE TIME BEING, WE HAVE CONCLUDED THAT THE CAR SHOULD RETAIN ITS STATUS AS AN

ELIGIBLE BENEFICIARY DEVELOPING COUNTRY.

B. WE WILL, HOWEVER, BE RECONSIDERING THE ELIGIBILITY OF A NUMBER OF COUNTRIES, INCLUDING THE CAR, BEFORE THE PLANNED TIME FOR IMPLEMENTATION OF GSP ON JANUARY 1, 1976, AND, IF APPROPRIATE, WILL MAKE NECESSARY CHANGES TO THE LISTS OF ELIGIBLE BENEFICIARIES AT THAT TIME.

C. IN PARTICULAR, IT WILL BE DIFFICULT TO SUSTAIN A DETERMINATION THAT THE CAR IS TAKING STEPS TO DISCHARGE ITS OBLIGATIONS TO U.S. PROPERTY OWNERS UNDER INTER-

NATIONAL LAW AS REQUIRED BY THE ACT UNLESS THE CAR TAKES STEPS SOON RESULTING IN SIGNIFICANT PROGRESS TOWARD SETTLEMENT OF THE CLAIMS OF TEXACO AND MOBIL. SUCH STEPS MIGHT INCLUDE RESPONDING TO THE CLAIMS SUBMITTED BY THE COMPANIES, OR OTHERWISE BEGINNING SERIOUS DISCUSSIONS OR NEGOTIATIONS WITH THEM ON COMPENSATION.

D. IF WE WERE UNABLE TO SUSTAIN SUCH A DETERMINATION, THE CAR COULD BE EXPECTED TO LOSE ITS ELIGIBILITY FOR GSP. IN ADDITION, THE GOCAR SHOULD BE AWARE OF SIMILAR LEGISLATION CALLING FOR THE USG TO SUSPEND BILATERAL ASSISTANCE, AND TO VOTE NEGATIVELY ON LOANS UNDER CONSIDERATION IN INTERNATIONAL DEVELOPMENT BANKS, TO COUNTRIES WHICH EXPROPRIATE AMERICAN PROPERTY WITHOUT DISCHARGING THEIR OBLIGATIONS TO U.S. CITIZENS UNDER INTERNATIONAL LIMITED OFFICIAL USE

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LAW (THE HICKENLOOPER AND GONZALEZ AMENDMENTS RESPECTIVELY). GIVEN THE SIMILARITIES BETWEEN THESE PROVISIONS IN LANGUAGE AND INTENTION, AN ADVERSE FINDING UNDER THE TRADE ACT WOULD MAKE IT DIFFICULT TO AVOID TAKING THE REQUISITE ACTION UNDER HICKENLOOPER AND GONZALEZ.

E. WE ARE HOPEFUL THAT SIGNIFICANT PROGRESS WILL BE MADE SOON TOWARD RESOLVING OUTSTANDING AMERICAN CLAIMS IN THE CAR, PARTICULARLY IN VIEW OF RECENT DISCUSSIONS BETWEEN DEPUTY SECRETARY INGERSOLL AND FOREIGN MINISTER FRANCK.

6. FOR THE EMBASSY'S INFORMATION, GENERAL GUIDANCE ON USG VIEW OF REQUIREMENTS OF INTERNATIONAL LAW WITH RESPECT TO EXPROPRIATED PROPERTY, AND ON THE POST'S ROLE IN HANDL-

ING INVESTMENT DISPUTES, PREVIOUSLY PROVIDED REF AIRGRAM.

7. FYI FOR CHARGE. USG DOES NOT WISH TO PROVOKE A CONFRONTATION WITH THE GOCAR OVER THE EXPROPRIATION ISSUE. WE DO, HOWEVER, HAVE U.S. LAWS RELATED TO EXPROPRIATION, AND IN ORDER TO MEET THESE PROVISIONS IT IS IMPORTANT THAT WE ARE ABLE TO DEMONSTRATE FORWARD PROGRESS BY THE CAR. WE WOULD APPRECIATE YOUR HELP IN IMPRESSING UPON THE GOCAR THE IMPORTANCE OF MOVING FORWARD, ESPECIALLY IN THE NEXT FEW WEEKS. END FYI.

8. PLEASE ADVISE RESULTS. KISSINGER

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